

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Single Family Appraisal Industry Roundtable Washington, D.C., February 8, 1999

EXECUTIVE SUMMARY

On February 8, 1999, the U.S. Department of Housing and Urban Development hosted a roundtable to address concerns expressed by industry participants regarding the roll-out of Handbook 4150.2 and the HUD Conditions and Appraisal Report (HCAR) form.

Representatives from the appraisal, real estate, lending, legal, insurance liability, and professional training industries joined in the discussion, either in person or via teleconferencing. Participants at the table were provided with a packet of materials, which included:

- List of roundtable invitees
- Summary of comments received via the HUD website
- Details of comments received
- HUD Conditions and Appraisal Report (HCAR) form and Valuation Condition (VC) sheet
- Presentation packet of the issues

HUD will continue to review and respond to comments and suggestions made by roundtable participants. The Department appreciates the effort of all involved to improve the single family appraisal process.

INTRODUCTION

Over fifty participants attended the February 8th roundtable, which opened with remarks by HUD's Assistant Secretary for Housing and Federal Housing Commissioner at HUD, William Apgar. Mr. Apgar thanked everyone for their feedback and began by addressing the major issues of concern.

The two-hour session focused on broad issues such as training, sanctions and increases in appraisal fees and liability. HUD encourages all who submitted comments to review the comment book handed out at the roundtable for accuracy. Any misrepresentation of comments or clarifications should be directed to Leonard Nowak at reacone@hud.gov

The roundtable discussion focused on the issues outlined in the presentation packet. These minutes follow that format.

Issue I: *Provide Details of the Exam Process and Training (3 Comments)*

- Panel of experts convene to design test
- Experts develop set of questions
- Test developed by June 1999
- Test administration to be determined

HUD will request a panel of experts who will develop testing questions by June. The test will focus on FHA appraisal requirements. The plan for implementing the tests has yet to be decided.

Matt Schneider of the National Association of Independent Fee Appraisers (NAIFA) inquired about how changes will be incorporated into the exam as the single family appraisal process and requirements evolve. Mr. Apgar responded that there will be an initial transition period whereby all FHA roster appraisers and new applicants will be tested. Thereafter, HUD will consider future tests.

Pete Vidi, State President of American Guild of Appraisers (AGA), raised specific questions about the exam, including:

- basic criteria for appraisers to be able to take the exam
- whether exams will be incorporated into standard testing sites
- requirements regarding basic field experience.

HUD replied that appraisers need to be state licensed. In addition, the exam does not change the rules for state licensing but, rather, adds to current rules.

Finally, because of the success of HUD's website as an interface between the Department and the public, HUD will investigate on-line testing capabilities. The goal is to make the exam process as flexible as possible for all interested appraisers.

Issue II: *HUD's Requirements Will Increase Fees (24 Comments)*

- OMB approximates time to complete form at 30 minutes
- Form tracks normal subject visit and documents observations

In addressing widespread industry concern that HUD's requirements will result in higher fees, Mr. Apgar stressed HUD's commitment to minimizing costs for FHA borrowers. He stated that, given the nature of FHA borrowers, HUD is very sensitive to anything that will raise fees and will work with the appraisal industry to keep costs down.

One participant asked whether or not OMB's finding of 30 minutes to complete the form is binding. D.J. LaVoy, Acting Director of the Real Estate Assessment Center, responded that OMB's finding is an approximation of the time over and above the current time to complete the HCAR and is not binding.

The issue of increased cost with regard to the home inspection, which will add \$300 according to one estimate, was raised. HUD acknowledged this extra cost burden and said that it is certainly an issue of concern.

One appraiser brought to everyone's attention how HUD's new requirements and forms will play out in small town America. He stressed that, because of the extended time it takes to complete a custom appraisal, many small town appraisers will ask themselves whether or not it is worth the extra time to conduct FHA appraisals. He added that the unfortunate but likely scenario is that the best and most conscientious appraisers will be the least likely to participate.

Issue III: Appraisers Cannot Identify Unseen Dangers (10 Comments)

- Appraisers only note "readily observable" conditions
- Appraiser only notifies lender through valuation condition, does not confirm existence of hazard

Many issues were raised regarding the appraiser identifying "readily observable" conditions.

Jim Park, SRA, of the Appraisal Institute asked for a more precise definition of "complete inspection" – for instance, whether or not appraisers are expected to crawl through the attic. HUD responded that the goal is not to change the art of appraising, but to update and condense the Single Family Appraisal Handbook to clarify requirements. Hence, "complete inspections" are performed through "reasonable observations" of easily accessible areas. The appraiser, for example, would not be required or expected to climb onto the roof. Instead, he or she is expected to inspect the roof from a readily accessible vantage point.

Mr. Park also asked for a discussion on the financing of fees, including how much and what would be financed. According to Mr. Apgar, the answer is complicated and would entail more than the allotted meeting time to properly respond. Briefly, though, closing costs are not financed but are instead used as credit against the 3% required cash investment.

A representative from the House Banking Committee, Scott Olson, inquired about how inspections which predate appraisals will be handled – specifically, will this be left to the appraiser's judgment or will it be up to the lender? Gary Eisenman, Deputy Assistant Secretary, replied that HUD is trying to track adherence to minimum property standards and, where such standards are not met, the Department will require that homes be repaired before achieving FHA endorsement. While that raises the issue of when lenders first become aware of non-conformity, the end results are the same. Appraisers are not being asked to make judgments; they are being asked to make "readily observable" recordings of conditions. Mr. Olson expressed concern that when appraisers check the VC boxes, they set the conditions by which the home must be fixed prior to endorsement. Mr. Eisenman acknowledged the concern and stressed that HUD requirements are no different from before, with the exception that the Department is trying to refine and clarify what is considered relevant.

Anthony Trodella, MRA, RA (MA), an appraiser who has been performing appraisals for twenty years noted that HUD's old and new VC sheets require no more work than Fannie Mae and Freddie Mac's forms and that the inspection process is not more complex or unique than before. The issue at hand, according to Mr. Trodella, is competency. Many appraisers do not know how to conduct proper appraisals and are now being asked to check "yes" and "no" boxes. HUD's appraisal guidelines are great, but the bigger problem of appraiser competency needs to be addressed.

Pete Vidi requested clarification with regard to the finality of checked "yes" and "no" boxes by appraisers in cases of lender disagreement. Again, Mr. Eisenman stressed that the process is no different from before, where the appraisal is performed for the lender to inform the underwriting procedure. As to the question of who, ultimately, makes the decision on a checked box, Mr. Apgar remarked that the final decision falls on the lender.

One appraiser shared with HUD and the roundtable participants the small town appraiser's perception of HUD's reform efforts and increased liability. Many appraisers in small towns have voiced discontent with the new process and have implied a boycott of exams. This means that someone outside of and unfamiliar with the town will perform the appraisal. Viewed from this light, the cure could be worse than the problem.

Another participant asked which of the two, home inspections and appraisals, HUD considers more accurate. According to Mr. Eisenman, the answer depends on who requested the home inspection to be performed. If the lender requested it, then he or she decides. The bottom line, said Mr. Apgar, is that the lender certifies the property as meeting FHA standards. In the case of negotiating between buyers and sellers, they can negotiate amongst themselves, but ultimately, the house must meet FHA minimum property standards.

Additional concerns were raised over the term "readily observable." Mr. Apgar stressed that "readily observable" is the operative word for the VC form. Appraisers are expected to notify lenders of conditions but do not, by default, confirm the existence of a hazard. One attendee commented that, while expert appraisers understand the phrase "readily observable," many lawyers do not and because of this, HUD will face a vast amount of litigation.

The question was asked whether HUD has a consumer information sheet to inform homebuyers that the appraisal is not a substitute for a home inspection. HUD responded that the front page of the VC sheet clearly states that the appraisal is not an inspection.

Cathy Wheatley, National Association of Realtors, asked why the VC report would be provided to the prospective buyer if, technically, lenders make the final decision and buyers have no real options in affirming the condition of the home. Because the consumer has no option, Ms. Wheatley felt that the VC report should remain between the appraiser and the lender. Mr. Apgar replied that while the lender ultimately decides if the appraiser-observed conditions warrant repair, it is to the consumer's benefit to receive the VC report.

Ms. Wheatley communicated a story about one homebuyer named Carla. She described Carla as being in a box because, unlike sellers who can go FHA, VA or conventional, Carla has

no flexibility and can only go FHA. HUD again stressed its concern for the FHA homebuyer and its desire that the consumer be as informed as possible.

Lastly, one participant expressed appraiser anxiety over HUD's "new" requirements, stating that the Department is demanding appraisers to "know what we do not know." He strongly felt that many appraisers would recommend home inspections to mitigate any potential litigation.

Issue IV: *Appraisers Not Responsible for Easements, Restrictions or Encroachments* (3 Comments)

- Standards require appraiser to adequately identify subject of appraisal
- Easements, restrictions and encroachments that are readily observable

There were no comments or questions from the general audience regarding this issue. Mr. Apgar described the extent of the appraiser's responsibility as finding out whether or not the homebuyer has permission to drive through a shared driveway if his or her property is in the back lot, for example. Again, the emphasis was on the "readily observable."

Issue V: *VC Segment Increases Liability and Cost* (43 Comments)

- Appraisers concerned about increased liability
- Lenders concerned that VC adds time and cost to transaction
- Consumer groups seek protection for homebuyer
- Growing congressional interest in mandatory inspections

A suggestion was made to split the VC sheet and the Homebuyer Disclosure pages to not confuse the purchaser. HUD was open to the idea and is asking for ideas on how to split the VC from the disclosure page without confusing the consumer.

On the issue of liability, one participant requested that HUD be explicit on the VC sheet as to what is required of appraisers because, as they currently stand, the protocol, Handbook and VC sheets are not consistent. In addition, providing a disclosure to the consumer, with the appropriate caveats, would be helpful. Finally, this appraiser felt that the recommendation for a home inspection is creating a lot of consternation because of widespread perception by appraisers that they are "damned if they do and damned if they don't." Instead of forcing appraisers to make the decision on home inspections, the decision should come from someone else's reading of the appraisal. The facts should speak for themselves and the burden removed from the appraiser's shoulder. Otherwise, the process will no longer be objective.

With regard to providing consumers with more information, there was some discussion of providing too much information. Mr. Apgar agreed that it is important to not confuse the buyer and overload them with information. HUD is considering splitting the forms to provide the Homebuyer with the first page as a summary sheet. One participant suggested that a statement be made at the top of the VC sheet that the appraiser "only saw what was observable."

HUD's commitment to place the appraiser back into a pivotal and accountable position was acknowledged, but there is a need for clear instructions as to what the Department requires of appraisers. Appraisers are concerned about the sanctions and penalties listed under Certification #11 of the HCAR. The suggestion was made for HUD to add a line stating that "the appraiser is trained and is performing the appraisal according to HUD/FHA standards."

Issue VI: *Providing Appraisal Report Two Weeks Prior to Close (31 Comments)*

- Lenders concerned that practice will negatively impact viability of FHA loans
- Goal is to determine best vehicle for communicating with consumer

Cathy Wheatley suggested that the requirement of providing appraisal reports two weeks prior to close will "kill the transaction."

In terms of the best vehicle for communicating with homebuyers, HUD is considering several alternatives, including using the Homebuyer Disclosure (the first page of the VC) as a summary sheet that covers all significant issues, versus noting everything at the bottom of the URAR.

Once again, the issue of liability was raised. Because appraisers have the least to gain from HUD reforms and have no training in the new process, there will be tremendous liability compared to the fees received. The common theme is a fear of consumers who do not understand the process and hence may sue the appraiser for defects discovered in the home post-appraisal. A participant representing appraisers expressed his concern over liability, but stated that because the document is intended to be useful for consumers, HUD should also be educating consumers. The bottom line is that appraisers should not be unfairly held accountable for observations they cannot be expected to make.

Issue VII: *Appraisal Review Process Needs Improvement (7 Comments)*

- Coordinate appraiser and review appraiser requirements
- Revamp quality assurance of appraisal process

According to Mr. LaVoy, HUD wants to identify appraisers who need additional training as well as those who should not be in the appraisal business. Mr. Apgar added that the Department is advocating systems-based monitoring of appraisers, redesign of the review function, and the electronic submission of forms so that HUD can better monitor appraisals.

Issue VIII: *Sanctions (14 Comments)*

- Non-uniformly applied in the past
- Delineation of infraction and corresponding sanction links behavior to results
- New QA process will ensure standardized remedies

Acknowledging a relatively uneven sanctions process in the past, Mr. Apgar emphasized HUD's commitment to enhancing the appraisal oversight process.

Issue IX: *Summary Sheet Proposed As Best Vehicle for Informing Consumer*

- Industry proposed an appraisal summary sheet
- Increasing Congressional interest in mandatory home inspection

Mr. Apgar informed roundtable participants that HUD is trying to achieve a middle ground on this issue. Congress has introduced another bill and asked the General Accounting Office (GAO) to look into mandatory inspections.

Two attendees informed HUD that the issue at hand is perception versus reality. The appraiser's nightmare is the unhappy consumer who tries to sue the appraiser. Thus, the issue is not about providing information up-front but about whom to go after, *ex post facto*.

Issue X: *Industry Concerns Over Non-Uniform Appraisal Report (5 Comments)*

- Appraisers concerned about implications of new form (software and industry compatibility)
- Lenders concerned about potential cost increase

The question at hand, according to Mr. Apgar, is whether there is enough difference between the HCAR and the URAR to warrant a new form and new software.

Ted Baker from the American Society of Appraisers said that he and his members strongly urge HUD not to change the URAR but to add an addendum instead.

With regard to the required disclosure on Line 171 of the form, "I have/have not been sanctioned for any appraisal offense by any appraisal organization, federal agency or state licensing board," a participant asked if there is a statute of limitations. For instance, if the offense occurred when the appraiser was 23 years old and had since been resolved, does the appraiser still need to disclose the sanction at age 60? Mr. Apgar clarified that HUD's intention is for the disclosure of sanctions that are recent and significant, versus technical and in the past.

One appraiser asked if the disclosure statement even had to be on the form. In other words, if the state says that an appraiser is in good standing, HUD should also consider him or her to be in good standing. The Appraisal Subcommittee has a website that is used by federally insured lenders to check on an appraiser's standing. HUD should not have to carve out a special niche for itself because it is not asking for something different from others in the industry.

A final comment was made that consumers do not pick appraisers and, because of this, liability is a big issue. Appraisers do not want HUD to burden them with recommending home inspections because they will check the box in order to reduce potential litigation.

Summary of Closing

On behalf of HUD and the FHA homebuyer, Mr. Apgar expressed his appreciation for the hard work put in by everyone. HUD is trying to balance the issues and determine the best way to proceed.

Participants can expect to hear from HUD within the next month. Additional comments may be submitted via the HUD website.

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